

REMARKS

In this Response, none of the claims are cancelled or amended, and no new claims are added. Claims 1, 2, 4-17, 19-23, and 26-30 are presented for examination.

Claim Rejections under 35 U.S.C. § 102

In “Claim Rejections – 35 USC § 102” on page 3 item 3 of the above-identified Final Office Action, claims 1-2, 4-17, 19, 20, 22, 23, 26-28 and 30 have been rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent Application Publication No. 2004/0122949 (hereinafter Zmudzinski).

According to MPEP 2136.05, a 35 USC 102(e) rejection can be overcome by showing that the reference cited describes Applicants’ own work. As declared in the enclosed declaration pursuant to 37 CFR § 1.132, the relevant portions of Zmudzinski were derived from Applicants’ own work. In particular, Zmudzinski et al. had access to Applicants’ work and relied upon it to develop the subject matter of their patent application. Applicants thus submit that Zmudzinski is disqualified as § 102 (e) prior art and that claims 1-2, 4-17, 19, 20, 22, 23, 26-28 and 30 are therefore patentable under 35 U.S.C. § 102 (e).

Claim Rejections under 35 U.S.C. § 103

In “Claim Rejections – 35 USC § 103” on pages 10 item 27 of the above-identified Final Office Action, claims 21 and 29 were rejected under 35 U.S.C. § 103(a) as being anticipated by Zmudzinski in view of U.S. Patent No. 6,978,373 (hereinafter Hild).

As discussed above, Zmudzinski is derived from Applicants’ own work and is thus disqualified as § 102(e) prior art. Also, even if Zmudzinski did qualify as prior art under § 102(e), the subject matter of Zmudzinski and the subject matter of instant application were, at the time the invention was made, both owned or subject to an assignment to Intel Corporation of Santa Clara, California (Intel), and both assignments have subsequently been recorded as evident by the attached assignment records. Thus, § 103(c)(1) provides that Zmudzinski does not preclude patentability under § 103. Therefore, for at least these two reasons, Zmudzinski is not available as prior art for purposes of a § 103 rejection and a *prima facie* case of claims 21 and 29

cannot be established in light of Hild standing alone. Applicants therefore respectfully submit that claims 21 and 29 are non-obvious in light of Hild standing alone.

CONCLUSION

For these reasons, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (503) 796-2883. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge Deposit Account No. 500393.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT, P.C.

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Al AuYeung
Reg. No.: 35,432

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97222
Telephone: 503-222-9981